



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 2064-99

18 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 3 August 1977 at the age of 18. Your record reflects that during the period from 1 February to 24 November 1978 you received nonjudicial punishment (NJP) on five occasions for a day of unauthorized absence (UA), nine periods of absence from your appointed place of duty, two incidents of disobedience, using provoking speech/gestures, communicating a threat, possession of marijuana, resisting arrest, and failure to report the use of marijuana.

Your record also reflects that during the period from 30 January to 9 March 1979 you received NJP on three more occasions for possession of marijuana, possession of explosives, communicating a threat, dereliction in the performance of your duty, failure to obey a lawful order, and failure to go to your appointed place of duty.

Subsequently, you were notified of pending separation action by reason of misconduct due to drug abuse and frequent involvement of a discreditable nature with military authorities. At this time you waived your rights to consult with legal counsel,

present your case to an administrative discharge board (ADB), or to submit a statement in rebuttal to the discharge. Your commanding officer recommended you be issued an other than honorable discharge by misconduct due to drug abuse and frequent involvement of a discreditable nature with military authorities. The discharge authority approved the foregoing recommendation and directed your commanding officer to issue you an other than honorable discharge. On 31 May 1979 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity and your contention that you would like your discharge upgraded. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness of your frequent and repeated drug related misconduct. The Board also noted that you waived your right to present your case to an ADB, your best opportunity to obtain a better characterization of service. Given all the circumstances of your case, the Board concluded the your discharge was proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director